



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree under the Clean Air Act

On August 18, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Columbia in the lawsuit entitled *United States v. Harley-Davidson, Inc., et al.*, Civil Action No. 1:16-cv-01687.

The United States' Complaint alleges that Harley-Davidson, Inc. (and three related companies) manufactured and sold over 339,392 after-market devices (known as "Super Tuners" and used with Harley-Davidson motorcycles) in violation of the Clean Air Act prohibition on the manufacture or sale of devices that defeat the functioning of the motorcycle's certified emissions control system. The Complaint also alleges, relatedly, that Defendants violated the provision of the Act that prohibits any person from removing or rendering inoperative a motor vehicle's certified emissions control system and from causing such "tampering." Finally, the Complaint alleges that Defendants manufactured and sold more than 12,000 motorcycles from model years 2006, 2007 and 2008 that were not certified by EPA as required by the Clean Air Act.

The Consent Decree requires Defendants to stop selling the illegal tuners in the United States by August 23, 2016. Defendants will also offer to buy back all such tuners in stock at Harley-Davidson dealerships across the country and destroy them. The Decree requires Defendants to obtain an Executive order from the California Air Resources Board (CARB) for any tuners it sells in the United States in the future. These Executive orders (E.O.s) will demonstrate that the CARB-certified tuners do not cause Defendants' motorcycles to exceed the EPA-certified emissions limits. Defendants must also conduct tests on motorcycles that have been tuned with the E.O.-certified tuners and provide the results to EPA to ensure that their

motorcycles remain in compliance with EPA emissions requirements. In addition, for any uncertified Super Tuners that Defendants sell outside the United States in the future, they must label them as not for use in the United States.

Under the Consent Decree, Defendants must also ensure that all of their future motorcycle models intended for sale in the United States are certified by EPA.

Finally, Defendants will pay a civil penalty of \$12 million and spend \$3 million implementing a project to mitigate excess hydrocarbon emissions by replacing conventional woodstoves with cleaner-burning stoves.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Harley-Davidson, Inc., et al.*, D.J. Ref. No. 90-5-2-1-11333. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD

P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$9.50 (25 cents per page reproduction cost)
payable to the United States Treasury.

Karen Dworkin
Assistant Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division

[FR Doc. 2016-20274 Filed: 8/23/2016 8:45 am; Publication Date: 8/24/2016]